

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,
 Plaintiff,
 v.
 ANTHONY UVARI,
 Defendant.

Case No. 2:18-cr-00253-APG-NJK

ORDER

[Docket No. 132]

Pending before the Court is the United States' motion for *in camera* inspection. Docket No. 132. *See also* Docket No. 118 (Defendant's motion to compel seeking, in part, disclosure of the files at issue in the instant motion). The United States seeks *in camera* review of whether the case files for *United States v. Jelinsky*, 2:09-cr-00028-RLH-GWF, and *United States v. Jacktrade, LLC*, 2:12-cr-00401-GMN-PAL, are discoverable under *Brady*. Docket No. 132 at 1. The Court has considered the United States' motion, Defendant's response, and the United States' reply. Docket Nos. 132, 133, 136.

The Local Rules require a good faith meet and confer effort before coming to the Court with any criminal discovery dispute. Local Criminal Rule 16-1(c). To adequately meet and confer under the Local Rules, the parties must "communicate directly and discuss in good faith the issues" through "direct dialogue and discussion." Local Rule IA 1-3(f). The movant must "certify that, despite a *sincere effort* to resolve . . . the dispute . . . the parties were unable to resolve . . . the dispute without court intervention. Local Rule IA 1-3(f)(2) (emphasis added). Failure to properly meet and confer prior to filing a motion with a meet and confer requirement "may result in the denial of the motion." Local Rule IA 1-3(f)(4).

Based on the parties' submissions to the Court, the United States has failed to establish that there was a sincere effort to meet and confer on the underlying motion for *in camera* review. The information that the United States submits to the Court is that the parties "met and conferred" twice

1 about the motion but “were unable to come to an agreement.” Docket No. 132 at 2 n.1. By the
2 United States’ own submissions, the conversations were limited to stipulating to allow *in camera*
3 review of the files at issue. Docket No. 136 at 1. Defendant provides further information that the
4 United States refused to participate in any meaningful discussion about the underlying dispute.
5 Docket No. 133. The United States’ motion therefore suffers from a threshold defect in that no
6 proper meet and confer occurred. Accordingly, the United States’ motion for *in camera* inspection
7 is hereby **DENIED**. Docket No. 132.

8 Even if the parties had properly met and conferred, the Court would still deny the instant
9 motion. The Court is never required to conduct an *in camera* review of the United States’ files for
10 *Brady* evidence that is favorable to Defendant. *United States v. Alvarez*, 358 F.3d 1194, 1211 (9th
11 Cir. 2004) (citing *United States v. Michaels*, 796 F.2d 1112, 1116 (1986)). *See also United States*
12 *v. St. Luke’s Subacute Care Hosp., Inc.*, 178 Fed.App’x. 711, 715 (9th Cir. 2006). Moreover, “[i]t
13 is the government, not the defendant or the trial court, that decides *prospectively* what information,
14 if any, is material and must be disclosed under *Brady*.” *United States v. Lucas*, 841 F.3d 796, 807
15 (9th Cir. 2016) (emphasis in original).

16 Accordingly, the Court **DENIES** without prejudice the United States’ motion for *in camera*
17 review. Docket No. 132.

18 IT IS SO ORDERED.

19 Dated: March 16, 2022

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22 Nancy J. Koppe
23 United States Magistrate Judge
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